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 of the State of California
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 6 Attorneys for Complainant

7
 8 **BEFORE THE**
BOARD OF ACCOUNTANCY
 9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
 10

11 In the Matter of the Accusation)	NO. AC-95-14
Against:)	
12)	OAH NO. L-9510108
ROM N. DE GUZMAN)	
13 P.O. Box 21343)	
Riverside, CA 92516)	<u>STIPULATION FOR</u>
14)	<u>REVOCATION AND DECISION</u>
Certificate no. 38380)	
15)	
DE GUZMAN ACCOUNTANCY)	
16 CORPORATION, CPA'S)	
P.O. Box 21343)	
17 Riverside, CA 92516)	
18)	
Certificate no. 3467)	
19)	
Respondents.)	

20
 21 Carol B. Sigmann, Executive Officer of the Board of
 22 Accountancy of the State of California, by and through her
 23 attorney, Daniel E. Lungren, Attorney General of the State of
 24 California, by Susan A. Ruff, Deputy Attorney General, and Rom N.
 25 De Guzman and De Guzman Accountancy Corporation, CPA's
 26 ("respondents"), by and through their attorney Phyllis M.
 27 Gallagher, Esq., hereby stipulate as follows:

28 1. The Board of Accountancy ("Board") acquired

1 jurisdiction over respondents by reason of the following:

2 A. Respondents were duly served with copies of
3 the Accusation, Supplemental Accusation, Statement to Respondent,
4 Request for Discovery, Form Notice of Defense and copies of
5 Government Code sections 11507.5, 11507.6 and 11507.7 as required
6 by section 11503 and 11505, and respondents timely filed a Notice
7 of Defense within the time allowed by section 11506 of the code.

8 B. Respondents have received and read the
9 Accusation and Supplemental Accusation, which are presently on
10 file as Case No. AC-95-14, before the Board. Respondents
11 understand the nature of the charges alleged in the Accusation
12 and Supplemental Accusation and that the charges and allegations
13 constitute cause for imposing discipline upon respondents'
14 licenses to practice which were issued by the Board. True and
15 correct copies of the Accusation and Supplemental Accusation are
16 attached hereto as Exhibits "A" and "B" respectively.

17 2. Respondents and their counsel are aware of each of
18 respondents' rights, including the right to a hearing on the
19 charges and allegations, the right to confront and cross-examine
20 witnesses who would testify against respondents, the right to
21 present evidence in their favor and call witnesses on their
22 behalf, or to testify, the right to contest the charges and
23 allegations, and other rights which are accorded to respondents
24 pursuant to the California Administrative Procedure Act (Gov.
25 Code, § 11500 et seq.), including the right to seek
26 reconsideration, review by the superior court, and appellate
27 review.

28 3. Respondents freely and voluntarily waive each and

1 every one of the rights set forth in paragraph 2.

2 4. Respondents understand that in signing this
3 stipulation rather than contesting the Accusation and
4 Supplemental Accusation, they are enabling the Board to issue the
5 following order without further process.

6 5. Admissions made by respondents herein are for
7 purposes of this proceeding, for any other disciplinary
8 proceedings by the Board, and for any petition for reinstatement,
9 reduction of penalty, or application for relicensure, and shall
10 have no force or effect in any other case or proceeding.

11 6. It is understood by respondents that, in deciding
12 whether to adopt this stipulation, the Board may receive oral and
13 written communications from its staff and the Attorney General's
14 office. Communications pursuant to this paragraph shall not
15 disqualify the Board or other persons from future participation
16 in this or any other matter affecting respondent. In the event
17 this settlement is not adopted by the Board, the stipulation will
18 not become effective and may not be used for any purpose, except
19 for this paragraph, which shall remain in effect.

20 7. Respondents admit that the allegations set forth in
21 paragraphs 1, 2, 3, 4, 5 and 15 of the Accusation and paragraphs
22 16, 18, 19, 20, 21 and 22 of the Supplemental Accusation are true
23 and that cause exists thereby to discipline both of their
24 licenses. Respondents neither admit nor deny the remaining
25 allegations of the Accusation and Supplemental Accusation.

26 8. Based upon the foregoing, it is stipulated and
27 agreed that the Board may issue the following as its decision in
28 this case.

ORDER

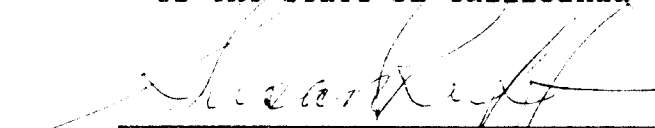
IT IS HEREBY ORDERED that:

1. Certificate number 38380 issued to Rom N. De Guzman is revoked.
2. Certificate number 3467 issued to De Guzman Accountancy Corporation, CPA's is revoked.
3. Respondents may petition for reinstatement after a period of not less than one year has elapsed from the effective date of this decision pursuant to Government Code section 11522.
4. The Board waives its right to collect investigation and prosecution costs for this matter.

I concur in the stipulation and order:

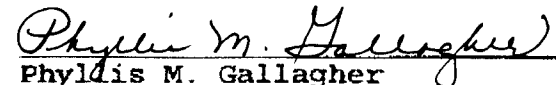
DATED: Jan 22, 1996

DANIEL E. LUNGREN, Attorney General
of the State of California


Susan A. Ruff
Deputy Attorney General

Attorneys for Complainant

DATED: Jan. 18, 1996


Phyllis M. Gallagher
Attorney for Respondent

I have carefully read and fully understand the stipulation and order set forth above. I have discussed the

1 terms and conditions set forth in the stipulation and order with
2 my attorney Phyllis Gallagher, Esq. I understand that in signing
3 this stipulation I am waiving my right to a hearing on the
4 charges set forth in the Accusation and Supplemental Accusation
5 on file in this matter. I further understand that in signing
6 this stipulation the Board may enter the foregoing order revoking
7 my right to practice as a certified public accountant in the
8 State of California.

9
10 Dated: January 18, 1996

11
12
13 Rom N. De Guzman

14 ROM N. DE GUZMAN
Respondent


15
16 Rom N. De Guzman

17 Rom. N. De Guzman, for
DE GUZMAN ACCOUNTACY CORPORATION, CPA'S

1 **DECISION AND ORDER**
2 **OF THE BOARD OF ACCOUNTANCY**

3 The foregoing Stipulation and Order, in No. AC-95-14,
4 is hereby adopted as the Order of the California Board of
5 Accountancy. An effective date of May 17, 1996, has been
6 assigned to this Decision and Order.

7 Made this 17th day of April, 1996.

8 
9 _____
10 FOR THE BOARD OF ACCOUNTANCY

11 SAR:SY
12 03541110-SD95AD0006

1 DANIEL E. LUNGREN, Attorney General
of the State of California
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6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation) NO. AC-95-14
Against:)
12)
ROM N. DE GUZMAN) ACCUSATION
13 73-282 Highway 111, #101)
Palm Desert, CA 92260)
14 Certificate No. 38380)
15)
16)
DE GUZMAN ACCOUNTANCY)
17 CORPORATION, CPA's)
73-282 Highway 111, #101)
18 Palm Desert, CA 92260)
19 Certificate No. 3467)
20 Respondents.)

21 Complainant Carol B. Sigmann, as cause for disciplinary
22 action, alleges:

23 PARTIES

24 1. Complainant is the Executive Officer of the
25 California State Board of Accountancy ("Board") and makes and
26 files this accusation solely in her official capacity.
27

Exhibit "A"

1 License Status

2 2. On or about July 29, 1983, the Board issued
3 Certificate No. 38380 (Certified Public Accountant) to Rom N. De
4 Guzman (hereinafter "respondent"), and at all times relevant
5 herein, said certificate was, and currently is, in full force and
6 effect.

7 3. On or about October 18, 1988, the Board issued
8 Certificate Number 3467 (Accountancy Corporation) to De Guzman
9 Accountancy Corporation, CPA's, with respondent as the sole
10 shareholder (hereinafter "respondent corporation"). That
11 certificate expired on June 1, 1994 and has not been renewed.

12
13 JURISDICTION

14 4. This accusation is made in reference to the
15 following statutes of the California Business and Professions
16 Code ("Code"):

17 a. Section 5100 provides, in part, that the Board
18 may revoke, suspend or refuse to renew any permit or
19 certificate issued by the Board, or may censure the holder
20 of any such permit or certificate for unprofessional
21 conduct.

22 b. Section 5107 provides, in part, that the
23 Executive Officer of the Board may request the
24 administrative law judge, as part of the proposed decision
25 in a disciplinary proceeding, to direct any holder of a
26 permit or certificate found guilty of unprofessional conduct
27 in violation of Code section 5100(j) or fiscal dishonesty in

1 violation of Code section 5100(h), to pay to the Board all
2 reasonable costs of investigation and prosecution of the
3 case, including, but not limited to, attorney's fees. The
4 Board shall not recover costs incurred at the administrative
5 hearing.

6 c. Section 5100(f) provides that unprofessional
7 conduct includes, but is not limited to, "Willful violation
8 of this chapter or any rule or regulation promulgated by the
9 board under the authority granted under this chapter."

10 d. Section 5100(h) provides that unprofessional
11 conduct includes, but is not limited to, "Fiscal dishonesty
12 or breach of fiduciary responsibility of any kind."

13 e. Section 5100(j) provides that, unprofessional
14 conduct includes, but is not limited to, "Embezzlement,
15 theft, misappropriation of funds or property, or obtaining
16 money, property, or other valuable consideration by
17 fraudulent means or false pretenses."

18 f. Section 5156 provides, in part, that an
19 accountancy corporation shall not do or fail to do any act
20 the doing of which or the failure to do which would
21 constitute unprofessional conduct under any statute, rule or
22 regulation now or hereafter in effect. The board shall have
23 the same powers of suspension, revocation and discipline
24 against a corporation as against individual licensees.

25 ///

26 ///

27 ///

1 g. Section 118(b) provides that "The suspension,
2 expiration, or forfeiture by operation of law of a license
3 issued by a board in the department, or its suspension,
4 forfeiture, or cancellation by order of the board or by
5 order of a court of law, or its surrender without the
6 written consent of the board, shall not, during any period
7 in which it may be renewed, restored, reissued, or
8 reinstated, deprive the board of its authority to institute
9 or continue a disciplinary proceeding against the licensee
10 upon any ground provided by law or to enter an order
11 suspending or revoking the license or otherwise taking
12 disciplinary action against the licensee on any such
13 ground."

14 5. This accusation is made in reference to section
15 75.11 of the California Code of Regulations ("CCR"), title 16,
16 which states, in part, that a certificate of registration for an
17 accountancy corporation may be suspended or revoked based on any
18 of the grounds outlined in Corporations Code section 13408.

19 CHARGES AND ALLEGATIONS

20 6. Respondent and respondent corporation are subject
21 to disciplinary action pursuant to Code sections 5100 and 5156
22 based on the following:

23 7. In or about 1985, respondent, either individually
24 or through respondent corporation, began providing
25 accounting services to Jack Levine. Thereafter, in or about
26 June 1991, respondent and Levine entered into a partnership
27 agreement to carry on a real estate construction and

1 development business. Respondent and/or respondent
2 corporation continued to provide accounting services for Mr.
3 Levine during and after the time the partnership was formed.

4 8. In or about July 1993, respondent received in the
5 mail a pre-approved credit card application from First
6 Interstate Bank for Mr. Levine. Without Mr. Levine's
7 knowledge or permission, respondent filled out the
8 application and forged Mr. Levine's signature. Respondent
9 ordered two cards on the account, one in his own name and
10 one in Mr. Levine's name. Respondent kept both cards when
11 they arrived. Between in or about July 1993 and October
12 1993, respondent used one or both of these cards to bill
13 various personal expenses, totalling several thousand
14 dollars. Mr. Levine had no knowledge of these purchases
15 until the account appeared on his credit report
16 approximately three months later.

17 9. In or about at least 1992 and 1993, respondent's
18 accountancy corporation failed to file its California
19 corporate income tax returns for the years ended March 1992
20 and March 1993.

21 10. Respondent's conduct, as more particularly set
22 forth in paragraphs 6 - 8 above, violated Code section
23 5100(h) in that respondent committed fiscal dishonesty or
24 breach of fiduciary duty by forging his client and partner's
25 signature to obtain a credit card without his client and
26 partner's knowledge or permission, and billing his own
27 personal expenses to that card.

1 11. Respondent's conduct, as more particularly set
2 forth in paragraphs 6 - 8 above, violated Code section
3 5100(j) in that respondent committed embezzlement, theft or
4 misappropriation of funds or property, or obtained money,
5 property, or other valuable consideration by fraudulent
6 means or false pretenses by forging his client and partner's
7 signature to obtain a credit card without his client and
8 partner's knowledge or permission and billing his own
9 personal expenses to that card.

10 12. Respondent's conduct, as more particularly set
11 forth in paragraphs 6 - 8 above, constituted unprofessional
12 conduct in violation of Code section 5100 in that respondent
13 forged his client and partner's signature to obtain a credit
14 card without his client and partner's knowledge or
15 permission and billed his own personal expenses to that
16 card.

17 13. Respondent and respondent corporation's conduct,
18 as more particularly set forth in paragraph 9 above,
19 violated Code section 5100(f), CCR section 75.11 and
20 Corporations Code section 13408 in that respondent and
21 respondent corporation failed to file corporate income tax
22 returns.

23 14. Respondent and respondent corporation's conduct,
24 as more particularly set forth in paragraph 9 above,
25 constituted unprofessional conduct in violation of Code
26 sections 5100 and 5156 in that respondent and respondent
27 corporation failed to file corporate income tax returns.

1 15. If respondent's certificate is suspended or revoked
2 for any reason, the certificate of respondent corporation
3 should likewise be suspended or revoked pursuant to
4 Corporations Code section 13408(b).

5 PRAYER

6 WHEREFORE, complainant requests that the Board hold a
7 hearing on the matters alleged herein, and that following said
8 hearing, the Board issue a decision:

- 9 1. Revoking or suspending Certificate Number 38380,
10 heretofore issued to respondent;
11 2. Revoking or suspending Certificate Number 3467,
12 heretofore issued to respondent corporation;
13 3. Directing respondents and each of them to pay to
14 the Board a reasonable sum for its investigative
15 and enforcement costs of this action; and
16 4. Taking such other and further action as the Board
17 deems appropriate to protect the public health,
18 safety and welfare.

19
20 DATED: February 24, 1995

21
22 *Carol B. Sigmann*
23 Carol B. Sigmann
24 Executive Officer
25 Board of Accountancy
26 Department of Consumer Affairs
27 State of California

Complainant

03541110-8D93AD0006

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7
 8 **BEFORE THE**
BOARD OF ACCOUNTANCY
 9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
 11 In the Matter of the Accusation) NO. AC-95-14
 Against:)
 12)
 ROM N. DE GUZMAN) SUPPLEMENTAL ACCUSATION
 13 P.O. Box 21343)
 Riverside, CA 92516)
 14)
 Certificate No. 38380)
 15)
 16)
 DE GUZMAN ACCOUNTANCY)
 17 CORPORATION, CPA's)
 P.O. Box 21343)
 18 Riverside, CA 92516)
 19 Certificate No. 3467)
 20 Respondents.)

21
 22 Complainant Carol B. Sigmann, as further cause for
 23 disciplinary action, alleges:

24 16. Complainant is the Executive Officer of the
 25 California State Board of Accountancy ("Board") and makes and
 26 files this Supplemental Accusation solely in her official
 27 capacity.

Exhibit "B"

1 17. Complainant realleges paragraphs 1 - 15 of the
2 Accusation and incorporates them herein by reference as if fully
3 set forth at this point.

4 JURISDICTION

5 18. In addition to the statutes listed in the
6 Accusation, this Supplemental Accusation is made in reference to
7 the following statutes of the California Business and Professions
8 Code ("Code"):

9 a. Section 5100(a) provides, in part, that
10 unprofessional conduct includes, but is not limited to,
11 conviction of any crime substantially related to the
12 qualifications, functions and duties of a certified public
13 accountant or public accountant.

14 b. Section 490 provides that: "A board may
15 suspend or revoke a license on the ground that the licensee
16 has been convicted of a crime, if the crime is substantially
17 related to the qualifications, functions, or duties of the
18 business or profession for which the license was issued. A
19 conviction within the meaning of this section means a plea
20 or verdict of guilty or a conviction following a plea of
21 nolo contendere. Any action which a board is permitted to
22 take following the establishment of a conviction may be
23 taken when the time for appeal has elapsed, or the judgment
24 of conviction has been affirmed on appeal, or when an order
25 granting probation is made suspending the imposition of
26 sentence, irrespective of a subsequent order under the
27 provisions of Section 1203.4 of the Penal Code."

1 CHARGES AND ALLEGATIONS

2 19. Respondents are subject to disciplinary action
3 based on the following:

4 20. On or about April 27, 1995, in the United States
5 District Court, Central District of California, in Case No. CR-
6 95-010-LEW, respondent was convicted on his plea of guilty to two
7 counts of violating Title 18 USC 1001 (making false statements
8 within the jurisdiction of a federal agency.)

9 21. The facts underlying the convictions are as
10 follows: 1) On or about July 13, 1993, respondent knowingly and
11 willfully prepared a false and fraudulent income tax return for
12 an internal revenue undercover operator; and 2) On or about
13 September 28, 1993, respondent knowingly and willfully forged an
14 IRS form 2848 (Power of Attorney) in the name of a taxpayer whom
15 respondent neither represented nor had ever met. Respondent
16 submitted the forged power of attorney to the IRS via facsimile
17 in order to obtain information about the taxpayer.

18 22. Respondent's conduct, as more particularly set
19 forth in paragraphs 20 - 21 above, violated Code sections 5100(a)
20 and 490 in that respondent was convicted of crimes which are
21 substantially related to his qualifications, functions and duties
22 as a licensee.

23 PRAYER

24 WHEREFORE, complainant requests that the Board hold a
25 hearing on the matters alleged in the Accusation and Supplemental
26 Accusation, and that following said hearing, the Board issue a
27 decision:

1. Revoking or suspending Certificate Number 38380, heretofore issued to respondent;
2. Revoking or suspending Certificate Number 3467, heretofore issued to respondent corporation;
3. Directing respondents and each of them to pay to the Board a reasonable sum for its investigative and enforcement costs of this action; and
4. Taking such other and further action as the Board deems appropriate to protect the public health, safety and welfare.

DATED:

July 11, 1995

Carol B. Sigmann
Carol B. Sigmann
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California

Complainant

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